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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,834	09/26/2003	Changfu Chen	CFP-2239 (15722/579)	1329
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NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			EXAMINER MAI, TRI M	
			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,834

Applicant(s)

CHEN, CHANGFU

Examiner

Tri M. Mai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 8 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 6. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term “like” after “sternum” and “rib” renders the claim indefinite because it is unclear what elements encompassed by the term “like”. See MPEP § 2173.05(d). It is suggested that the term “like” be deleted in all recitations.

“means of the skin” is not a proper 112, 6th recitation.

Claim 8 is a duplicate of claim 6

Regarding claim 14 “ncluding” (ln.3) is misspelled.

Claim Rejections - 35 USC § 102

3. Claims 1-8, 11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by the admitted prior art shown in Fig. 6., or in the alternative, over the admitted prior art in view of Sutter (5971147). The prior art teaches a bag, a frame with a sternum and rib elements, a cover, a plurality of first partitions 76 attached to the rib like elements.

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In the alternative, Sutter teaches that it is known in the art to provide a bone with skin covering. It would have been obvious to one of ordinary skill in the art to provide a divider with sternum and intersection ribs in the admitted prior art as taught by Sutter to provide added protection and/or to provide a rigid divider.

Regarding claim 8, the bone 72 is an enlarged bone as claimed. In other words, it has an enlarged constant cross section.

Regarding claim 14, it has a reduced lower portion at the attachment point with the partition.

4. Claims 1-8, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al. (2004/0035729) in view of Kennedy (4311178). Chang teaches a bag, a frame with a sternum portion, and rib elements, a cover 70, a plurality of first partitions 56 attached to the rib like elements by hook and loop fasteners (pg. 5, para. 69).

Regarding claim 2, note the disclosed Abstract.

Regarding claims 6 and 7, the ends of the ribs and sternum are the upper and lower portions and the ends have an enlarged portion and a reduced portion (compared with the enlarged portion) as claimed.

5. Claims 1-5, 11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Pape or in the alternative, over the Pape prior art in view of Sutter (5971147). The prior art teaches a bag, a frame with a sternum and rib elements 22, a cover 24, a plurality of first partitions 21, 26 attached to the rib like elements.

Regarding claim 14, there is a reduced lower portion at the attachment point with the dividers.

In the alternative, Sutter teaches that it is known in the art to provide a bone with skin covering. It would have been obvious to one of ordinary skill in the art to provide a divider with sternum and intersection ribs in the admitted prior art as taught by Sutter to provide added protection and/or to provide a rigid divider.

6. Claims 1-5, 8, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pape (4691823) in view of Kennedy (4311178). Chang teaches a bag, a frame with a sternum portion, and rib elements, a cover 70, a plurality of first partitions 56 attached to the rib like elements by hook and loop fasteners (pg. 5, para. 69).

Regarding claim 2, note the disclosed Abstract.

Regarding claims 6 and 7, the ends of the ribs and sternum are the upper and lower portions and the ends have an enlarged portion and a reduced portion (compared with the enlarged portion) as claimed.

7. Claims 9, 10, 12-13, and 15-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai 
Primary Examiner
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